IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WP(C).No. 32343 of 2006(A)

AGAINST THE ORDER IN IA. 6780 /2006 IN
OS.8/1999 of I ADDL.SUB COURT, THRISSUR

.....

PETITIONER:

RAVI @ SURENDRANATHAN (K.S.NATHAN),
S/O. LAKSHMIKUTTY AMMA,
KUTTEPARAMBIL HOUSE, VELIYANNUR,
THRISSUR VILLAGE.

BY ADV. SRI.P.K.ASHOKAN
SMT.DHANYA P.ASHOKAN

RESPONDENTS:

SOMAN, S/O. CHANDRABHANU,
PALLATH HOUSE, MARAR ROAD, THRISSUR VILLAGE &
THRISSUR TALUK.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.32343 OF 2006

Dated 7th December 2006

JUDGMENT

Petitioner is defendant in O.S.8/99 on the file of First Additional Sub court, Thrissur. Petitioner filed I.A.6780/06, for issuing summons to two witnesses to produce documents and give notice. One witness was examined. The other witness did not appear as summons was not issued. Learned Sub Judge under Ext.P2 order held that as no steps was taken by petitioner to issue summons to second witness, adjournment sought for by counsel appearing for petitioner cannot be allowed finding that in view of the time limit prescribed by High Court for disposal of the suit, as per order dated 16.6.2006 and also for the laches of petitioner no further time can be granted. This petition is filed under Article 227 of Constitution of India seeking a direction to learned Sub Judge to examine the second witness.

2. Learned counsel appearing for petitioner was heard.

3. Arguments of learned counsel appearing for petitioner was that if court had issued summons to petitioner to hand over the same to the witness he would have served the summons personally to second witness and the witness could have examined without delay and in such circumstances, learned Sub Judge is to be directed to permit petitioner to take out summons and examine the witness.

4. On hearing learned counsel appearing for petitioner it is clear that interest of justice warrants that permission is to be granted to petitioner to examine second witness, which in fact was allowed earlier as per order dated 9/11/2006. If petitioner applies before the learned Sub Judge to issue summons to the witness to be handed over to second witness personally by the petitioner, learned Sub Judge has to issue summons and if the witness appears and produces documents Sub Judge has to examine the witness and proceed with the trial.

Writ petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.